

WV Developmental Disabilities Council

2013 Legislative Statements

(Adopted 10/23/12)

The West Virginia Developmental Disabilities Council is a federally funded state agency whose mission is to assure that West Virginia citizens with developmental disabilities receive the services, supports, and other forms of assistance they need to exercise self-determination and achieve independence, productivity, integration and inclusion in the community.

Twenty-two of the thirty-two Members of the Council are appointed by the Governor and include people with developmental disabilities, family members, and others interested in the provision of services to people with developmental disabilities. The remaining ten Members of the Council are Directors of State agencies charged with providing services to people with developmental disabilities.

West Virginia citizens with developmental disabilities have many competencies and abilities which go unrecognized and are under-utilized. They are also some of the most vulnerable individuals in our population. The WV DD Council strives to ensure that people with developmental disabilities are offered the same opportunities for education, employment, health care, and community supports and services as other citizens enjoy. The Council also works to ensure that the State's service systems provide the necessary supports to families/guardians that include members who have developmental disabilities so that children can grow and prosper in their own homes with services that adequately meet their needs.

The WV Developmental Disabilities Council uses the following values and beliefs when considering legislative issues:

In the area of **HEALTH**:

The Council will continue to advocate for people with developmental disabilities and their families/guardians to have access to a comprehensive health care system that provides the most appropriate, effective, quality services. The Council supports legislation that promotes a healthier environment, and ensures better access to quality health care for all people with developmental disabilities, and reflects the following principles:

- Publicly funded health insurance programs will include adequate coverage including competitive reimbursement rates, essential assistive technology, augmentative equipment, preventative and maintenance dental and hearing and vision services.
- People with developmental disabilities will have adequate and affordable home health care.
- Home and vehicle adaptations will be included as a covered service through the State Medicaid Plan.
- Medical students and other health care professionals will receive information and training specific to developmental disabilities.
- People who acquire brain and spinal cord injuries during their developmental years will receive appropriate medical, psychiatric, training, therapeutic, and social supports.
- People with developmental disabilities will be able to receive timely services, supports, and equipment from the programs that serve them.

Protection of Life

The Council is concerned about the very lives of people who are generally perceived to have a lower social status, particularly those who have developmental disabilities. Therefore, we uphold the principle of applying excellent standards of care for such people. We reject limitations of treatment policies directed at people with impairments. Further, the Council does not support any legislation that seeks to hasten death by medical professionals

who would be given the authority to judge the value of a person's life by invoking "quality of life" concerns.

Ventilator Care

The Council supports the expansion of Medicaid coverage to allow adults with developmental disabilities who need ventilator assisted breathing to be able to receive such services in their homes and communities.

Dental Care

The Council supports the expansion of Medicaid coverage of dental care to include adults. Current coverage for adults is limited to extractions and pain reduction. West Virginia is ranked #1 in the nation for loss of permanent teeth, and poor oral health can lead to other health and behavior related issues.

In the area of EMPLOYMENT:

The Council will support legislation that ensures valued, integrated employment with competitive wages for people with developmental disabilities, and emphasizes full time and part time employment, and reflects the following principles:

- People with developmental disabilities must have health care services available to them when gainfully employed.
- People with developmental disabilities will have the opportunity to receive job services from the provider of their choice.
- People with developmental disabilities will have the opportunity to pursue customized employment that is based on individualized interest, strengths, needs, and may include job carving and self-employment.
- People with developmental disabilities will have the opportunity to receive, as necessary, supported employment services that focus on a person's abilities, and provides job coaching and other supports to be successful on a long-term basis.
- People with developmental disabilities will have the opportunity to access transportation and other employment supports.
- People with developmental disabilities and their families/guardians will have timely access to appeals, grievance mechanisms, and

safeguards when necessary.

Employment First Initiative

The Council supports the *Employment First* concept. *Employment First* means employment in the general workforce is the first and preferred outcome for people with developmental disabilities, regardless of their level of disability. Employment is not a program; employment is an outcome.

In the area of **COMMUNITY SUPPORTS:**

The Council will advocate against the further development of segregated, congregated service settings. The Council will support legislation that invests adequate funding for services that support people with developmental disabilities to live in their own homes and neighborhoods, eliminates the institutional bias, ensures the re-directing of Medicaid and other public funding, and reflects the following principles:

- People with developmental disabilities must have person-centered supports and services in their home communities where they live, learn, work, and are full participants.
- People with developmental disabilities will have improved employment transition planning.
- People with developmental disabilities and their families/guardians will control and direct the resources available to them.
- People with developmental disabilities will live free from financial exploitation, abuse, neglect, injuries, and preventable death.
- People with developmental disabilities and their families/guardians will be able to access providers that assure personnel are adequately trained and qualified.
- People with developmental disabilities will be supported to discover their individual interests and abilities and explore various options in order to spend their time in a way that is meaningful throughout the day.

Unserved/Underserved

The Council supports legislation that strengthens safeguards for people with developmental disabilities who do not qualify for or are being denied Medicaid I/DD Waiver, Aged and Disabled Waiver, and other relevant publicly

funded community supports. People with developmental disabilities must be protected from abuse, neglect, and preventable death, and have access to person-centered services and supports.

Olmstead Implementation

The Council will advocate for full implementation of the *WV Olmstead Plan* as approved by the Governor in October 2005. This is WV's Plan to carry out the *Olmstead Decision* rendered by the U.S. Supreme Court in June 1999. The decision mandates that people with disabilities have the right to receive state administered services, programs and activities "in the most integrated settings". People with disabilities are to be given the opportunity to leave nursing homes, long term care facilities, ICFs/IID (formerly known as ICFs/MR), other group homes and psychiatric hospitals, and to be supported in living fully integrated lives in communities around the State.

Public Funding

The Council will continue to advocate for the restoration of and increases in State and Federal funding necessary to maintain or enhance critical support services that allow people with developmental disabilities to live, learn, work, and be full participants in their communities. The Council supports legislation that would require the re-direction of Medicaid and other funding from segregated facilities and programs to integrated community services and supports.

Behavioral Health Licensure Regulations

The Council would oppose any changes to the behavioral licensure rules that would cause persons' private homes to be designated or treated like facilities.

Guardianship

The Council will advocate for clarification in order for Guardianship laws which allow **limited** guardianship to be implemented in all areas of the State, and will also advocate for the use of alternatives to guardianship to become the norm.

Forced Sterilization

The Council will advocate for the removal from the West Virginia State Code the option of forced sterilization for a person declared mentally incompetent. This law was enacted in 1929 due to the belief that people

labeled “defectives” were a “burden to society.” The Council views the inclusion of a eugenics-based sterilization law as reprehensible, and a violation of the civil rights of individuals who have been declared mentally incompetent, in particular those individuals with developmental disabilities.

In the area of **EDUCATION**:

The Council will advocate against further development of segregated educational settings. The Council supports legislation that ensures equal opportunities for students with developmental disabilities to be educated in regular education classrooms, in their home schools, and other inclusive educational settings, and reflects the following principles:

- All students with developmental disabilities will get a free and appropriate education responsive to their individual sensory and learning styles.
- Students with developmental disabilities will not be excluded from regular classes with their non-disabled peers.
- There will be full implementation of the Individuals with Disabilities Education Act (IDEA), Elementary Secondary Education Act (ESEA) (formerly known as No Child Left Behind), Section 504 of the Rehabilitation Act, The Americans with Disabilities Act (ADA), and other related disability laws.
- Students with developmental disabilities will be protected against restraints, segregation, expulsion, or other inappropriate punishment as a result of uniform discipline policies.
- Students with developmental disabilities will be free from bullying and harassment while receiving a public education.
- Educators will be provided more training and technical assistance on inclusive education and diverse learning styles.
- Parents will receive appropriate training and supports in order to advocate effectively on behalf of their child.
- Students with developmental disabilities and their parents will receive additional supports/training and planning at all stages of transition.
- Students with developmental disabilities will have the opportunity to participate in transitional school to work activities, and have access to community adult education and training.

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- Students with developmental disabilities will have access to appropriate training and higher education which helps them obtain competitive employment.
- Students with developmental disabilities will be educated by appropriately trained teachers who have high expectations of them and who will use effective teaching methods to provide a strong and challenging educational curriculum.
- Graduation from High School with a regular diploma (rather than a modified diploma) will be the first and most desired outcome for students with developmental disabilities.

Expected Behavior in Safe and Supportive Schools

The Council will monitor the West Virginia Department of Education's implementation of Policy 4373, otherwise known as *Expected Behavior in Safe and Supported Schools*, for any possible adverse effects on WV's children who have developmental disabilities.

Erin's Law

The Council supports legislation, such as *Erin's Law*, which requires students to be educated on sexual abuse in an age appropriate manner in order to inform and protect them from sexual abuse. Under *Erin's Law*, the West Virginia Department of Education would be required to adopt intensive and evidence based curricula for children in grades pre-K through the 12th grade. The law would also require new training for school personnel and provide information and resources to parents.